

U.S. International Trade Commission
Washington, DC 20436

**SIMPLIFICATION OF THE HARMONIZED TARIFF
SCHEDULE OF THE UNITED STATES**

INTRODUCTION

Purpose of the Investigation

This investigation is intended to provide a basis for simplifying the Harmonized Tariff Schedule of the United States (HTS), which sets forth a nomenclature structure and the statistical reporting requirements applicable to imports into the United States. The HTS was enacted by the Omnibus Trade and Competitiveness Act of 1988¹ and entered into effect on January 1, 1989, following the repeal of the former Tariff Schedules of the United States (TSUS). The U.S. International Trade Commission (USITC or the Commission) is charged with the maintenance and publication of the HTS and its supplements, and also has responsibilities under section 1205 of the 1988 Act (19 U.S.C. 3005) with respect to keeping the tariff nomenclature up-to-date and in conformity with the international Harmonized Commodity Description and Coding System (HS). The HS, a nomenclature structure developed and administered by the World Customs Organization in Brussels, is incorporated in the HTS and comprises the 4-digit headings and 6-digit subheadings of the HTS, together with legal rules and notes. Under the terms of the international convention implementing the HS, contracting parties are required to include without change all of the 4- and 6-digit categories of the HS, as numbered, and the legal notes thereto. The present investigation, therefore, is directed at the simplification solely of the 8-digit U.S. tariff rate lines and the 10-digit statistical reporting numbers, the general legal notes, chapter additional U.S. legal notes, and matters relating thereto.

The Commission initiated work on this investigation under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) following receipt of a letter of request from the Committee on Ways and Means, U.S. House of Representatives (the Committee), on July 14, 1997. In its letter, the Committee requested that the Commission propose modifications to the HTS to make it simpler, more transparent, and easier to use. The Commission was directed to do this work according to the following guidelines:

- ☐ examine the difficulties arising from the complexity and size of the HTS and suggest modifications to alleviate compliance and administrative burdens for the business community and the U.S. Customs Service;
- ☐ use concession-rate levels scheduled to go into effect on January 1, 2004, as the basis for general rates and special rates of duty, taking into account any staging scheduled to occur beyond that date with appropriate suggested modifications;
- ☐ suggest ways to simplify the U.S. tariff structure, consistent with sound nomenclature principles and U.S. international obligations under the HS Convention, to the extent practicable without causing duty-rate changes having a significant effect on U.S. industry and trade;
- ☐ suggest appropriate methods of reflecting column 2 duty rates, without proposing or maintaining rate lines solely for the purpose of reflecting column 2 duty rates;
- ☐ suggest conversions of all specific, compound, and complex rates of duty to their

¹ Subtitle B of title I of Public Law 100-418, 102 Stat. 1107, of Aug. 23, 1988 (19 U.S.C. 3001 *et seq.*).

ad valorem equivalents, provided that such conversions would not have significant effects on U.S. industry and trade and using trade data from the three most recent calendar years; and

- ❑ suggest an appropriate simplification of HTS statistical reporting categories for consideration by the Committee for Statistical Annotation of the Tariff Schedules (known as the 484(f) Committee, for its statutory authority).

Input and Comments Sought

The Committee stated that, at an appropriate time during the investigation, the Commission should hold public hearings to obtain the views of interested parties, and should consult with interested Government agencies. The Commission is directed to submit its report to the Committee, to the Committee on Finance of the U.S. Senate, and to the President within three years of the date of the request (July 14, 1997). The draft schedule is being made public on April 1, 1999, and public comments thereon will be accepted until June 30, 1999; subsequently, there may be additional materials released for comment, and the hearing date will be scheduled. The Commission's final report is due to be submitted not later than July 14, 2000.

In order to give the business community and other interested parties an opportunity to have input regarding the proposed simplified schedule, the Commission is requesting public comment and is seeking the views of other Government agencies. Moreover, the Commission is making available this initial draft of the proposed simplified schedule, comprising chapters 1 through 97 and the legal notes thereto, together with a cross-reference table to align the existing and proposed schedules. The draft schedule has been posted in PDF format on the World Wide Web site maintained by the Commission,² and printed copies are available for public inspection in the Office of the Secretary of the Commission and in the Office of Tariff Affairs and Trade Agreements.

Preparation of the Draft Simplified Schedule

Methodology and procedures

In beginning the work on the proposed simplified HTS, the Commission looked to the guidelines set forth in the request letter and also made certain decisions with a view toward attaining real gains in terms of simplification in as much of the schedule as possible. These decisions included—

- ❑ in addition to combining related tariff categories that have common rates of duty as of January 1, 2004, other tariff categories with slight differences in duty rate on that data could be combined where the change is considered not to have a significant adverse effect, as described further below;
- ❑ for the public comment draft, only 1997 trade data (the last full year available at

² See <http://www.usitc.gov>.

the time of preparation of the proposed schedule) would be used to compute ad valorem equivalent duty rates, although the final report will be based upon available data for the three most recent years, as requested;

- ☐ statistical categories necessary for monitoring or enforcing U.S. laws, such as provisions required by the Food and Drug Administration, would be retained even where trade was low or other considerations might have suggested deletion;
- ☐ other low trade categories, especially at the statistical level--meaning in most cases categories having less than \$10 million in annual trade--would be dropped, subject to possible future restoration if parties later make an appropriate request and show actual need to reinstate statistical reporting for individual classes of goods;
- ☐ the general notes to the HTS would be simplified and reorganized;
- ☐ footnotes--which have no legal significance and are administratively inserted by the Commission for the convenience of users--would be dropped from the schedule, and appropriate measures to substitute would be incorporated in the automated International Trade Data System now being constructed;
- ☐ the Chemical Appendix to the HTS, which by 2004 would have actual effect only with respect to one tariff category due to the staging of rates for all others currently covered, would be dropped and appropriate adjustment made for that one product;
- ☐ units of quantity would be simplified by removing the requirement from individual categories that value be reported with the first unit of quantity, and by adopting a general statistical note that has the same result (unless individual categories specify that value is to be reported with the second unit of quantity);
- ☐ derived rates and other hard-to-administer duty rates would be replaced with ad valorem rates, based upon an analysis of the goods concerned, 1997 trade (for this draft of the proposed schedule) levels and 1997 ad valorem equivalents; and
- ☐ where possible, given information available to the Commission, the descriptive nomenclature would be updated or otherwise revised in order to make it clearer and less burdensome.

With regard to the first item listed above, an effort was made to retain the duty rate treatment scheduled to be effective in 2004. However, if two related or adjacent rate lines at some level of the nomenclature's hierarchical structure--such as a hypothetical example of "red wagons" and "other"--had different 2004 duty rates but trade that varied widely--perhaps \$2,000 and \$1 million for these two imaginary classes--the separate rate lines are often combined into a single one in this proposed draft, and the final duty rate from the existing category having the clear preponderance of trade has been indicated for the new rate line. Any such changes are reflected in the proposed chapters using bold type and are similarly noted in the cross-reference table for the provisions concerned. Thus, for specific classes of goods there may be either a slight increase or a slight decrease in proposed duty rate, compared with present treatment, where it is believed that the change would not have a substantial adverse impact on U.S. industry and trade.

While retaining the enacted and familiar format of the HTS, the Commission has in this draft made technological progress by converting the existing text done in a now-little-used software package to one that is much more accessible to a wider range of users and more easily

convertible to other word processing software. The new version can also be more easily be put onto the Internet, either as word processing files or in PDF format.

In preparing for the work of simplification, Commission staff used the existing (1999) text and, bearing in mind that the international level 4- and 6-digit categories cannot be changed, began to look through the nomenclature and to seek instances where the 8- and 10-digit nomenclature seemed unwieldy, confusing, or otherwise complex. Once these were identified, staff would take into account three basic considerations: first, the purpose underlying the creation of the descriptive classes in question; second, the final URA duty rate levels among the pertinent group and differences among them; and third, the volume of trade in each category. In some instances, multiple classes of goods that seemed clearly to be related could not be covered by a single new provision because the final staged duty rates were quite different (diverging by more than 0.5 percent ad valorem). In other instances, classes of goods covered by different rate lines having common final duty rates could not be combined because the volume of trade in each was quite high (each exceeding \$10 million). It was not considered desirable to collapse them only to recreate the product detail at the statistical level, where less verification of shipment volumes occurs; this is especially true where staff was aware that the different rate lines had been created for a particular purpose, such as to capture separately those goods that might be considered import sensitive. In still other instances, the nomenclature itself argued against combining different classes of goods; that is, staff considered there was no reliable, clear way to describe the goods if the categories were combined. In other cases, particularly in the chemicals area, existing article descriptions contain enumerations of different chemical products that are already quite lengthy, discouraging making these lists of products still longer merely for the sake of having a single rate line for each group. As a related matter, some provisions based on the customs value of the imported goods (categories referred to as having “value breaks”) have been dropped from the proposed schedule; the low or nonexistent level of trade suggests that the specified range of values might be obsolete.

Notable aspects of simplification

Although much of the schedule could be examined and simplified under the above-noted procedures, certain factors made simplification of some parts of the schedule quite difficult. For example, the “borrowed” or derived rates of duty applicable to apparel ensembles, the relatively low levels of trade involved, and the fact that it was impossible to know which garments might be contained in any particular shipment, made it difficult to propose ad valorem rates of duty for the rate lines concerned. For some rate lines, little or no trade was reported during 1997 (or in other recent years), and estimated ad valorem rates had to be suggested based on minimal or nonexistent trade data. In some cases, such as watches, even where the nomenclature under the HS was relatively well suited to goods in trade in terms of their technology, the rates of duty—inherited to some extent from the TSUS by virtue of staging schedules from prior rounds of multilateral negotiations—were not as modern in their formulation, and trade data gave insufficient information to allow complete confidence about the nature of goods in trade as the staff prepared new proposed duty rates. Similarly, color televisions were covered by orderly marketing agreements under the TSUS, with varying rates of duty for products subject or not subject to these arrangements; these rates have been modified differently through different schedules of

staged reductions. In still other cases, the products concerned are commodity items with varying prices (by source and by time of year), so that ad valorem equivalent rates are at best a snapshot taken on a particular date. The existence of tariff-rate quotas and their influence on types and levels of goods shipped make it even harder to know what ought to be the ad valorem equivalent rate for the goods concerned.

The many tariff-rate quotas (TRQs) covering agricultural goods, converted as part of the URA concessions package from absolute quantitative restraints implemented under section 22 of the Agricultural Adjustment Act (7 U.S.C. 624, as amended), are hard to understand and to administer. The former single rate lines applicable to each product subject to quotas were each replaced as of January 1, 1995, with three (or more) rate lines—generally, with one category covering goods “described in general note 15,”³ a second the other below-TRQ-trigger-level shipments, and a third for “other,” meaning all other shipments; usually the first two lines have identical general duty rates and the third has a much higher general rate. The staff attempted to arrive at a simpler means of presenting the TRQ provisions, including provisions that might be included in chapter 98 of the HTS and under which shipments would be double-reported but not counted towards TRQ trigger levels. However, no substitute for the existing multiple-rate-line scheme has yet been proposed in this draft, and suggestions for simplifying the presentation of these provisions will be considered.

One notable area where statistical reporting has been simplified for this draft involved the requirement that individual metal content be reported for imported ores, concentrates and other metal-bearing materials of chapter 26. Generally, reported trade in the minor constituents (unlike trade in the metal named in the heading) does not justify the complex reporting requirements of the existing chapter. It should be noted that reporting of precious metal content for these products was retained in most cases. Similarly, the reporting requirements for precious metal content in various headings of chapter 71 have been simplified, and a new unit of quantity has been proposed to eliminate dual reporting.

For footwear of chapter 64, tariff descriptions and reporting requirements have been revised and rearranged. These changes permit maintenance of applicable rates of duty and continued collection of statistical information, while eliminating numerous duplicative provisions. Similar modifications were made with respect to embroidery of chapter 58, and changes have been suggested to end the application of “borrowed” duty rates from goods that were not embroidered.

³ General note 15 sets forth certain types of shipments that are not to be counted with respect to the TRQs: products shipped by or for any U.S. Government agency, products imported for personal use of the importer in quantities not to exceed 5 kilograms, products imported as samples and not for commercial use, certain blended syrups made in U.S. foreign trade zones, and certain cotton covered by safeguards.

Programs not reflected

In the proposed schedule, some trade preference programs or provisions created therefor are not reflected. Some of the complexity inherent in the existing HTS arose as actions were taken under these programs, such as the Generalized System of Preferences (GSP),⁴ or as provisions were created to implement negotiated rules of preference under the North American Free Trade Agreement. It was decided that the simplified schedule would not show duty-free treatment under the GSP in the special rates of duty subcolumn because a complete product review would seem necessary upon adoption of a simplified schedule, and because “competitive need” computations could not be done now for trade in 2004 and beyond; nor would the draft indicate those countries currently excluded from GSP benefits for particular goods.

Similarly, the draft omits the provisions of existing general note 12(t), which sets forth the tariff classification rules that determine whether a good containing non-NAFTA-origin content is a product of the NAFTA region and is therefore eligible for tariff preferences. These heading/subheading-specific provisions will require revision, following trilateral negotiations among the parties to the agreement, because of the modification or deletion of many U.S. tariff categories. It is proposed that these rules, once revised and approved, would be moved from the general legal notes and would appear in the chapters to which they relate; this change would make the rules more obvious and accessible to users of the tariff seeking to claim NAFTA preferences. It is also noted that many categories of goods will become free of duty on a normal trade relations basis in 2004, thereby obviating the need to reflect special NAFTA rate treatment.

Third, the textile and apparel category numbers adopted under the previous Multifiber Arrangement and currently used for purposes of the WTO Agreement on Textiles and Clothing (ATC) have been dropped. To reflect the category number system and allow collection of the data necessary to enforce bilateral restraints, a large number of statistical reporting numbers were created under tariff categories covering textile and apparel goods; many of these provisions serve no other significant purpose and cover low-trade goods. Under the ATC, the contracting parties have agreed to terminate remaining quantitative restraints applicable to WTO countries at the close of 2004. Thus, it is proposed that the HTS no longer contain this enforcement structure, because by 2005 it will apply to relatively few countries and because there may be alternative computerized means to obtain the same information (primarily under the ITDS).

Results of simplification

It is hoped that the draft would accomplish the elimination from the tariff schedule of 8- and 10-digit categories that have minimal trade, reach common duty rates as to similar/related goods, have an unclear product scope, or otherwise present administrative problems. Statistical reporting and the structure of duty rates have likewise been examined, and useful revisions have

⁴ Under GSP, the President may decide to give duty-free entry to less than the scope of an existing tariff rate line and therefore subdivides it to accomplish the desired treatment; also, tariff rate lines may be subdivided to give or remove GSP treatment from one or more beneficiary countries, usually pursuant to the so-called “competitive need” limitations of title V of the Trade Act of 1974, as amended (19 U.S.C. 2461 et seq.).

been proposed. The existing (1999) HTS comprises 1534 pages with regard to the general notes, chapters 1-97, and the chemical appendix (with accompanying chapter and section notes but not including the index, tables, and various other pages); without counting the NAFTA tariff classification rules of general note 12(t), the 1999 schedule totals 1412 pages for the cited portions. By contrast, the proposed simplified schedule (again without the NAFTA tariff classification rules) comprises approximately 945 pages.

Similarly, it is hoped that careful thought would be given about the purposes of this investigation before provisions are added or restored to the schedule. The burden on both government agencies and private sector parties of administering and complying with the existing schedule, and also the cost of doing so, should indicate the benefits of having a more streamlined schedule. Further, it would seem possible to administer the provisions of the trade laws (given that temporary categories may be added in chapter 99 for limited purposes and time periods) without adding large numbers of rate lines or statistical categories.

Comments Now Sought

The Commission hopes that the release of this draft simplified schedule will prompt comments from the trading community and from interested government entities. Several types of comments would be useful: general ones relating to the presentation and format of the notes and chapters, and specific ones relating to the nomenclature for and duty rates on particular goods of interest. In addition to comments suggesting changes in the draft (either language or rate revisions or the restoration of previous language or categories), it would be helpful to be advised of instances where further simplification can be accomplished without adverse impact. It is hoped that the trading community would see in this effort an opportunity to reduce compliance headaches somewhat and to cut their documentation costs. It is further hoped that government entities would be flexible in their views and to realize that there may be other means (such as the ITDS) for administering a program or gathering certain information, so that the tariff can be more transparent. While there may be a need for adjustments on the part of other agencies, it is hoped that a balancing of interests—rather than a wholesale retention of complex provisions—can be attained.

In both the draft schedule and the cross reference, bold type has been utilized to highlight changes in the numbering of provisions, their content, reporting criteria, or rates of duty, as well as in the text of legal notes. Compiler's notes have been inserted in certain instances to provide additional guidance about proposed changes or omissions or to indicate possible future changes in proposed text. For example, such notes indicate that the listing of countries eligible for GSP benefits is current as of March 1, 1999, while a second indicates that the list of countries excluded from GSP treatment for specified tariff categories is omitted from this draft because it changes annually and because a new review would be needed following simplification.

Staff Assignments

General comments:	Eugene A. Rosengarden, Director (202-205-2595) Office of Tariff Affairs and Trade Agreements
General legal notes	Janis L. Summers, Attorney-adviser (202-205-2605)
Chapters 1-24	Ronald H. Heller, Nomenclature Analyst (202-205-2596)
Chapters 25-26	Lawrence A. DiRicco, Nomenclature Analyst (202-205-2606)
Chapters 27-40	Frederick Schottman, Nomenclature Analyst (202-205-2077)
Chapters 41-49	Ronald H. Heller (202-205-2596)
Chapters 50-63	Janis L. Summers (202-205-2605)
Chapters 64-83	Lawrence A. DiRicco (202-205-2606)
Chapters 84-85	Craig M. Houser, Nomenclature Analyst (202-205-2597)
Chapters 86-89	Lawrence A. DiRicco (202-205-2606)
Chapters 90-91	Craig M. Houser (202-205-2597)
Chapters 92-97	Lawrence A. DiRicco (202-205-2606)